

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES of the EMPIRE STATE CARPENTERS
WELFARE, PENSION, ANNUITY, APPRENTICESHIP,
CHARITABLE TRUST, LABOR MANAGEMENT
COOPERATION, and SCHOLARSHIP FUNDS,

ORDER

11-CV-381 (ADS)(ARL)

Plaintiffs,

-against-

WILLIS H. CARROLL d/b/a CARROLL SMALL
REPAIRS,

Defendant.

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APPEARANCES:

Levy Ratner P.C.

Attorneys for the plaintiffs
80 Eighth Avenue, 8th Floor
New York, NY 10011

By: Owen M. Rumelt, Esq., Of Counsel

NO APPEARANCE:

Willis H. Carroll d/b/a Carroll Small Repairs

SPATT, District Judge.

On January 25, 2011, the plaintiffs commenced this action against Willis H. Carroll d/b/a Carroll Small Repairs. The Clerk of Court noted the default of the defendant on November 30, 2011 and on January 25, 2012, the plaintiffs moved for a default judgment. On April 2, 2012, the Court referred this matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On July 30, 2012, Judge Lindsay issued a Report and Recommendation, recommending that the Court enter a default judgment against the defendant, but deny the plaintiffs' motion for an award of damages without prejudice to the renewal upon submission of a collective bargaining agreement

covering the relevant time period. To date, there have been no objections filed to Judge Lindsay's Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record."

Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it to be persuasive and without any legal or factual errors.

There being no objection to Judge Lindsay's Report, it is hereby

ORDERED, that Judge Lindsay's Report and Recommendation is adopted in its entirety. The Court: (1) grants the plaintiffs' motion for a default judgment as against defendant Willis H. Carroll d/b/a Carroll Small Repairs and (2) denies the plaintiffs' motion for an award of damages without prejudice to the renewal upon submission of a collective bargaining agreement covering the relevant time period, and it is further

ORDERED, that the Clerk of the Court is directed to terminate the motion at docket entry # 9.

SO ORDERED.

Dated: Central Islip, New York
September 7, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge